S.B. Civil Misc. Appeal No.1866/2006.
(Smt. Hauua & Ors. Vs. Shanker Lal & Ors.)

Date of Order :: 15th December 2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. M.L. Khatri, for the appellants.

….

By way of this appeal, the claimants seek enhancement over the amount of compensation awarded by the Tribunal on account of accidental death of Hamira (22 years), son of the appellant No. 1, brother-in-law of the appellant No. 2 and uncle of the appellant No. 3.

In its impugned common award dated 01.03.2005, insofar it relates to claim case No. 144/2000, the Motor Accidents Claims Tribunal, Barmer for the purpose quantification of compensation has noticed the submissions of the claimants about the deceased earning as a labourer; and for want of any cogent evidence on record, has taken his monthly income at Rs.2,100/- and deducting one-third wherefrom and with application of multiplier of 11 in view of the age of the mother-claimant above 50 years, has assessed pecuniary loss at Rs.1,84,800/- and allowing Rs.2000/- towards funeral

expenses has awarded compensation in the sum of Rs.1,86,800/-. The tribunal has allowed interest @ 6% per annum after adjustment of the amount of Rs.50,000/-, if received under interim award. The Tribunal has disallowed the claim of the applicants Nos. 2 and 3, sister-in-law and nephew of the deceased.

Having heard learned counsel for the appellant and having perused the impugned award, this Court is clearly of opinion that the amount allowed by the Tribunal under the impugned award cannot be said to be falling short of just compensation and this appeal for enhancement deserves to be dismissed.

The amount awarded by the Tribunal in the sum of Rs.1,86,800/-, taking entire of two-third of the estimated income of the deceased for the purpose of loss of contribution to the mother of the deceased, definitely stands on higher side. The deceased being an unmarried person, looking to the future certainties and uncertainties, the chances of his getting married in future and larger part of his income getting diverted to his own family cannot be ruled out. In the circumstances of the case, not more than one-half of the estimated income of the deceased could have been taken towards pecuniary loss for the mother. Then, application of multiplier of 11, in view of the age of

the mother at above 50 years, is also on the maximum. In this view of the matter, the assessment of pecuniary loss itself has been much in excess of the reasonable amount of loss admissible in this case.

The Tribunal has not awarded any amount towards non-pecuniary loss and has of course erred in depriving the claimant of the reasonable amount of interest from the date of filing of claim application; and there appears no reason why the Tribunal has chosen to award interest only from the date of award; however, when viewed in the context of the other error by the Tribunal in awarding higher amount on pecuniary loss for the mother of the victim, this court is clearly of opinion that the award made by the Tribunal in favour of the claimant rules out any scope of enhancement.

In the ultimate analysis, the award made by the Tribunal cannot be said to be too low or grossly inadequate so as to warrant interference in appeal at the instance of the claimant.

The appeal fails and is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

MK